



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2023-0189; FRL-10876-01-R1]

Air Plan Approval; Connecticut; New Source Review Permit Program State Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Connecticut State Implementation Plan (SIP) concerning its New Source Review (NSR) permit program. The Connecticut Department of Energy and Environmental Protection (CT DEEP) submitted these revisions on December 15, 2020, as well as a supplemental letter on February 14, 2023. The revised state plan incorporates various updates to CT DEEP's NSR procedural requirements, substantive review criteria, provisions related to the control of volatile organic compounds (VOC), and clarifying revisions to existing SIP-approved regulations.

DATES: Written comments must be received on or before **[Insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R01-OAR-2023-0189 at <https://www.regulations.gov>, or via email to kilpatrick.jessica@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket.

Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish

to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “For Further Information Contact” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit

<https://www.epa.gov/dockets/commenting-epa-dockets>. Publicly available docket materials are available at <https://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square – Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID-19.

FOR FURTHER INFORMATION CONTACT: Jessica Kilpatrick, Air Permits, Toxics, and Indoor Programs Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Mail Code: 5-MI, Boston, MA 02109-0287. Telephone: 617-918-1652. Fax: 617-918-0652 Email: kilpatrick.jessica@epa.gov

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

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I. Background

CT DEEP established its SIP, including its NSR permit program, in 1972 in accordance with Clean Air Act (CAA) section 110 and 40 CFR part 51. Since then, there have been numerous revisions to the SIP in compliance with state and federal air permitting regulations. On December 15, 2020, CT DEEP submitted a SIP amendment to its NSR permitting air quality regulations, Regulations of Connecticut State Agencies (RCSA) 22a-174-1, 22a-174-2a, 22a-174-3a, 22a-174-20, and 22a-174-26, which became effective on November 18, 2020. After initial review of these SIP revisions, EPA requested clarification of the exact regulatory text CT DEEP proposed to incorporate into its SIP. As a result, CT DEEP provided a supplemental clarification letter on February 14, 2023.

II. Review of NSR Program Updates

CT DEEP's revisions includes various changes to the NSR permit program. There are multiple corrections and updates to citations within the RCSA and Connecticut General Statutes (CGS) as well as some grammatical edits and clarifying language that do not substantively change the meaning of the regulations. Significant changes are outlined in the paragraphs below.

The RCSA 22a-174-2a revisions pertain to procedural requirements for NSR permitting. One of these revisions at RCSA 22a-174-2a(d)(9) clarifies the requirements that apply when the commissioner modifies an NSR permit. The provision requires public notice as well as opportunity for public comment and public hearing before granting, granting with conditions, or denying the permit.

Another revision at RCSA 22a-174-2a(e)(3)(C) alters the timeline requirements of the minor permit modification¹ process after an application is submitted, so that there is an exception for

¹ Connecticut's minor NSR permit modification provisions apply to changes to a permit that are required for the permittee to lawfully engage in any of the activities or proposed activities at a stationary source as identified, which would not otherwise be permitted under state's substantive review program at 22a-174-3a, where a 15 tons per year increase threshold for Regulated NSR pollutants review exists.

implementing the modifications not less than 21 days after filing an application. If the commissioner notifies the applicant during that period, the commissioner can define when the modification can be implemented. If 21 days have passed since filing a complete application and the commissioner has not notified the permittee, the permittee shall comply with the terms and conditions of the proposed modified permit and the terms and conditions of the existing permit that are not being modified, until the commissioner issues or denies the proposed modified permit.

RCSA 22a-174-2a(e)(3) was revised to require a minor permit notification for a permit issued pursuant to RCSA 22a-174-3a or former RCSA 22a-174-3 to include the demonstrations required by RCSA 22a-174-3a(d)(3)(B) and (C). RCSA 22a-174-2a(e) clarifies that the commissioner may modify a NSR permit in accordance with RCSA 22a-174-2a, RCSA 22a-174-3a, and CGS 22a-174c. The revision to RCSA 22a-174-2a(f)(2) requires a permittee of any stationary source for which the commissioner has issued a permit pursuant to RCSA 22a-174-3a or former RCSA 22a-174-3 to submit a written request for a permit revision, for the purpose of implementing a fuel conversion described in section RCSA 22a-174-3a(a)(2)(A)(iii), (iv), or (v). Other purposes established previously include correcting clerical errors, minor administrative changes, revising the name of the authorized representative of the permittee, and more frequent or additional monitoring, record keeping, or reporting.

The revisions to RCSA 22a-174-3a pertain to permitting for constructing and operating stationary sources. Permit exemption criteria are modified at 22a-174-3a(a)(2)(A)(ii)-(v), so that there is a new subclause (v) that exempts any activity that “constitutes a conversion from fuel oil to liquefied petroleum gas, or in addition to fuel oil, provided such conversion does not increase actual emissions of any individual air pollutant by fifteen (15) tons or more per year, unless such conversion results in reconstruction” from requiring a permit to construct or operate a stationary source or modification. RCSA 22a-174-3a(a)(5) is updated to confirm that any modification or revision to a permit issued in accordance with the section or former RCSA 22a-174-3 shall be

made as required in, and in accordance with, the provisions in the section and section 22a-174-2a of the RCSA.

RCSA 22a-174-3a(d)(3)(B) and (C) modify demonstration requirements before issuance of a permit or permit modification. RCSA 22a-174-3a(d)(3)(B) is modified in regard to demonstration requirements for attainment or maintenance of applicable ambient air quality standards or Prevention of Significant Deterioration (PSD) increments. The revision specifies that such demonstration shall be made with respect to any applicable ambient air quality standard or increment in effect at the time the application is submitted: (i) when emissions of the pollutant or a precursor to the pollutant subject to the applicable ambient air quality standard or increment will increase as a result of the construction and operation, or (ii) when any parameter is changed in a manner that may increase the ambient impact. RCSA 22a-174-3a(d)(3)(C) is modified in regard to demonstration requirements for attainment or maintenance of any other states' National Ambient Air Quality Standards (NAAQS) and SIP application requirements. The revision specifies that such demonstration shall be made with respect to any applicable ambient air quality standard or increment in effect at the time the application is submitted: (i) when emissions of the pollutant or a precursor to the pollutant subject to the applicable ambient air quality standard or increment will increase as a result of the construction and operation, or (ii) when any parameter is changed in a manner that may increase the ambient impact.

A revision to RCSA 22a-174-3a(i)(2) specifies that the air quality models, databases, and other techniques used for estimating ambient air quality impacts must also be approved by the EPA Administrator, not just by CT DEEP commissioner.² With this revision, Connecticut's SIP will provide for the performance of such air quality modeling as the EPA Administrator has prescribed and will therefore comply with CAA § 110(a)(2)(K). As a result, EPA proposes to convert the conditional approvals, which EPA previously issued for CAA section 110(a)(2)(K)

² The EPA Administrator's approved air quality models, databases, and other requirements are found at EPA's 40 CFR Part 51, Appendix W, Guideline on Air Quality Models.

and for the PSD-related requirements of sections 110(a)(2)(D)(i)(II), 110(a)(2)(C), and 110(a)(2)(J) for Connecticut's infrastructure SIP for the 2015 ozone NAAQS, 85 FR 50953 (Aug. 19, 2020), to full approvals.

RCSA 22a-174-3a(j)(8)(A) adds Best Available Control Technology (BACT) restrictions to emissions of any pollutant which would exceed: (ii) any applicable State Implementation Plan limitation or (iii) an emission limitation established in section 22a-174-22e of the RCSA for the applicable category of fuel burning equipment, regardless of whether the equipment is located at a source that is major for nitrogen oxides (NO_x). CT DEEP reserves RCSA 22a-174-3a(k)(3), which exempts a major stationary source or major modification with potential emissions of NO_x of more than twenty-five (25) tons but less than forty (40) tons per year from PSD attainment area permit requirements.

A variety of changes are made to RCSA 22a-174-3a(l)(1), which establishes permit requirements for nonattainment areas. These changes include applicability to any new major stationary source of the pollutants for which the area is designated as nonattainment, or of the precursors to such pollutants. There are also updates to applicability to any major modification that is or will be located at a major stationary source of the pollutant for which the area is designated as nonattainment and that results in a significant net emissions increase of the pollutant for which the area is designated as nonattainment, or results in a significant net emissions increase of a precursor to the pollutant for which the area is designated nonattainment. A new RCSA 22a-174-3a(l)(1)(D) defines applicable precursor pollutants to the subsection: VOC compounds are precursors to ozone, NO_x are precursors to ozone and PM_{2.5}, and sulfur dioxide is a precursor to PM_{2.5}.

RCSA 22a-174-20(gg), which regulates control of VOC emissions from offset lithographic printing and letterpress printing, has a new subdivision for exemption criteria for fountain solutions at RCSA 22a-174-20(gg)(3)(A) and cleaning solvents at RCSA 22a-174-20(gg)(5)(A) and (B). Exemption criteria are specifically applicable to an owner or operator of a heatset web

offset lithographic or heatset letterpress printing press that operates VOC pollution control equipment in accordance with RCSA 22a-174-20(gg)(4). These exemptions are subject to the contingency that the emissions from the use of cleaning solvents and fountain solution are vented to an air pollution control system that is operated when VOC-containing materials are used.

EPA reviewed these SIP revisions for consistency with the CAA. We determined that CT DEEP's implementation and enforcement provisions are at least as stringent as the Federal regulations applicable to NSR permitting at 40 CFR Part 51 and 52. The specific changes proposed to be made to the SIP and EPA's rationale for approval are included in a technical support document included in this docket of this action.

III. Proposed Action

EPA is proposing to approve CT DEEP's revised state plan for its NSR permit program. EPA is also proposing to convert several conditional approvals, which EPA previously issued for Connecticut's Infrastructure State Implementation Plan for the 2015 ozone standard, to full approvals. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to this proposed rule by following the instructions listed in the **ADDRESSES** section of this *Federal Register*.

IV. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the provisions regulating NSR permitting discussed in Section II. of this preamble and as specified in CT DEEP's letter dated February 14, 2023. The EPA has made, and will continue to make, these documents generally available through

<https://www.regulations.gov> and at the EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon oxides, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: April 3, 2023.

David Cash,
Regional Administrator,
EPA Region 1.

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